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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/578,832

05/10/2006

Wilhemus Franciscus Johannes Verhaegh

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS

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BRIARCLIFF MANOR, NY 10510

EXAMINER

MARANDI, JAMES R

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/578,832	Applicant(s) VERHAEGH ET AL.	
	Examiner JAMES R. MARANDI	Art Unit 4157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/10/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following minor informalities:

In paragraph [0024], "television" label is not consistent with what is shown in Figure 4. In one instance television is labeled 100 (which is the broadcast stream in Figure 4), In another instance it is labeled 401 (which is the device). Please ensure consistency and make appropriate corrections as needed.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-23 are rejected under 35 U.S.C. 102(b) as being anticipated by D.J. Zigmond, WO 99/66719 (hereinafter "Zigmond").

Regarding claim 1, Zigmond discloses:

A method for inserting (Figure 4, element 60) replacement commercials (7-10) (Figure 4, element 64) into a data stream (100) (Figure 4, element 52), the data stream having program (A, B, C) and commercial portions (1, 2) (Figure 4, element 52), the method comprising: detecting one or more of the commercial portions of the data stream; and replacing the detected one or more commercial portions with either more or less of the replacement commercial portions. (Figures 3, and 4; Page 11, lines 7-30; Page 12, lines 1-6)

Regarding claim 2, **further comprising storing the commercial portions in the data stream subsequent to the detecting.** (Figure 5, element 86; Page 21, lines 23-31; Page 22, lines 1-8)

Regarding claim 3, **wherein the replacing comprises selecting the replacement commercial portions from at least one of the stored commercial (Figure 5, element 86) portions from the data stream and other commercial portions from an external source (422) (Figure 5, "Ad Delivery" and/or "Programming Delivery").** (Figure 5, elements 83, 86, 88, and 90)

Regarding claim 4, **further comprising storing the other commercial portions from the external source.** (Figure 5, element 86; Page 21, lines 23-31; Page 22, lines 1-8)

Regarding claim 5, **further comprising detecting one or more of the program portions of the data stream and storing the one or more detected program portions**, Zigmond's disclosure is explicit in its awareness and detection of various programs and commercials (Ads). On Page 23, lines 20-27, Zigmond further offers Ad insertion without regard to the position of the conventional advertising slot, therefore stopping the program stream at will, presenting the Ad, and then restarting the normal flow of the program. During the program stoppage (pause) the program stream must be stored to enable its restart and to ensure no loss in the continuity of the program therefore fully meeting the limitation of claim 5.

Regarding claim 6, **wherein the replacing comprises indicating one or more preferences of a user**. (Figure 5, elements 61, 82, and 83; Page 15, lines 30-31; Page 16, lines 1-2)

Regarding claim 7, **wherein the indicating is a manual indication by the user**. (Page 13, lines 7-14)

Regarding claim 8, **wherein the indicating is an automatic indication from a recommendation system that forms a user profile, the user profile indicating viewing preferences of the user**. (Figure 5, elements 82, 83, 86, and 88; Page 15, lines 8-18)

Regarding claim 9, wherein the one or more preferences of the user are selected from a group consisting of preferred replacement commercial portions, a preferred frequency of the replacement commercial portions, and a preferred length of the replacement commercial portions. (Page 19, lines 14-19)

Regarding claim 10, further comprising outputting an output data stream (400) having the program portions and the replacement commercial portions. (Figure 5, element 58)

Regarding claim 11, wherein the replacement commercial portions are more than the detected commercial portions, the method further comprising dividing at least one of the program portions into sub-portions (A.sub.1, A.sub.2, B.sub.1, B.sub.2) having at least one of the replacement commercial portions there between. Zigmond disclosure, as reflected in Figure 5 and flow chart of Figure 6 (also page 23, lines 20-21), allows for insertion of commercials at any point in the program stream. This necessitates breaking up the program stream into as many segments as there are commercials to be inserted, Therefore fully meeting the limitation of claim 11.

Regarding claim 12, wherein the replacement commercial portions are less

than the detected commercial portions, the method further comprising combining at least two of the program portions into a larger program portion. (Rejected by the same analysis as claim 11)

4. Claims 13- 21, a device effectuating the method of claims 1-12, are hereby rejected by the same analysis.
5. Claim 22, a computer program product effectuating the method of claims 1-12 , is hereby rejected by the same analysis.
6. Claim 23, **wherein a program storage device readable by machine, tangibly embodying a program of instructions executable by the machine performs the method steps for inserting replacement commercials (7-10) into a data stream,** is hereby rejected by the same analysis as the method claim it effectuates.

Contacts

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES R. MARANDI whose telephone number is (571)270-1843. The examiner can normally be reached on 8:00 AM- 5:00 PM M-F, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vu Le can be reached on (571) 272-7332. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James R. Marandi/
Patent Examiner

/Vu Le/
Supervisory Patent Examiner, Art Unit 4157